

Article 20.

Nursing Home Administrator Act.

§ 90-275.1. Title.

This Article shall be known and may be cited as the "Nursing Home Administrator Act." (1969, c. 843, s. 1.)

§ 90-276. Definitions.

For the purposes of this Article and as used herein:

- (1) "Administrator-in-training" means an individual registered with the Board who serves a training period under the supervision of a preceptor.
- (2) "Board" means the North Carolina State Board of Examiners for Nursing Home Administrators.
- (3) "Nursing home" means any institution or facility defined as such for licensing purposes under G.S. 131E-101(6), whether proprietary or nonprofit, including but not limited to nursing homes owned or administered by the federal or State government or any agency or political subdivision thereof and nursing homes operated in combination with a home for the aged or any other facility.
- (4) "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether such individual has an ownership interest in such home and whether his functions and duties are shared with one or more individuals.
- (5) "Preceptor" means a person who is a licensed and registered nursing home administrator and meets the requirements of the Board to supervise administrators-in-training during the training period. (1969, c. 843, s. 1; 1981, c. 722, s. 3; 1981 (Reg. Sess., 1982), c. 1234, s. 1; 2001-153, s. 1.)

§ 90-277. Composition of Board.

There is created the State Board of Examiners for Nursing Home Administrators. The Board shall consist of seven members. The seven members shall be voting members and shall meet the following criteria:

- (1) All shall be individuals representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients.
- (2) Less than a majority of the Board members shall be representative of a single profession or institutional category.
- (3) Three of the Board members shall be licensed nursing home administrators, at least one of whom shall be employed by a for-profit nursing home and at least one of whom shall be employed by a nonprofit nursing home. These three Board members shall be considered as representatives of institutions in construing this section.
- (4) Four of the Board members shall be public, noninstitutional members, with no direct financial interest in nursing homes.
- (5) The terms of the Board members shall be limited to two consecutive terms.

Effective July 1, 1973, the Governor shall appoint three members, one of whom shall be a licensed nursing home administrator, for terms of three years, and four members, two of whom shall be licensed nursing home administrators, for terms of two years. Thereafter, all terms shall be three years. However, no member shall serve more than two consecutive full terms. Any vacancy occurring in the position of an appointive member shall be filled by the Governor for the unexpired term in the same manner as for new appointments. Appointive members may be removed by the Governor for cause after due notice and hearing.

Any member of the Board shall be automatically removed from the Board upon certification by the Board to the Governor that the member no longer satisfies the criteria set forth in subdivisions (1) through (4) of this section for appointment to the Board. (1969, c. 843, s. 1; 1973, c. 728; 1981, c. 722, s. 4; 1995, c. 86, s. 1.)

§ 90-278. Qualifications for licensure.

The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators.

- (1) A license as a nursing home administrator shall be issued to any person upon the Board's determination that the person:
 - a. Is at least 18 years of age, of good moral character and of sound physical and mental health; and
 - b. Has successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure;
or
has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure. Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study;
 - c. Has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and
 - d. Has successfully completed the training period as an administrator-in-training as prescribed by the Board. If a person has served at least 12 weeks as a hospital administrator or assistant administrator of a hospital-based long-term care nursing unit or hospital-based swing beds licensed under Article 5 of Chapter 131E or Article 2 of Chapter 122C, the Board shall consider this experience comparable to the initial on-the-job portion of the administrator-in-training program only; and
 - e. Has passed the national and State examinations designed to test for competence in the subject matters referred to in sub-subdivision c. of this subdivision within one year from the date of completion of the administrator-in-training program.

- (2) Repealed by Session Laws 1981, c. 722, s. 6.
- (3) A temporary license may be issued under requirements and conditions prescribed by the Board to any person to act or serve as administrator of a nursing home without meeting the requirements for full licensure, but only when there are unusual circumstances preventing compliance with the procedures for licensing elsewhere provided by this Article. The temporary license shall be issued by the chairman only for the period prior to the next meeting of the Board, at which time the Board may renew such temporary license for a further period only up to one year. (1969, c. 843, s. 1; 1973, c. 476, s. 128; 1981, c. 722, ss. 5-7; 1981 (Reg. Sess., 1982), c. 1234, s. 2; 1983, c. 737; 1987, c. 492, s. 1; 1991, c. 710, s. 1; 2013-346, s. 1.)

§ 90-279. Licensing function.

The Board shall license nursing home administrators in accordance with rules and regulations issued and from time to time revised by it. A nursing home administrator's license shall not be transferable and shall be valid until expiration or until suspended or revoked for violation of this Article or of the standards established by the Board pursuant to this Article. Denial of issuance or renewal, suspension or revocation by the Board shall be subject to the provisions of Chapter 150B of the General Statutes. (1969, c. 843, s. 1; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

§ 90-280. Fees; display of license; duplicate license; inactive list.

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program and reciprocity endorsement shall pay a processing fee set by the Board not to exceed five hundred dollars (\$500.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed one thousand dollars (\$1,000). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed one thousand dollars (\$1,000).

(c) Each person licensed as a nursing home administrator shall display his or her license certificate, along with the current certificate of renewal, in a conspicuous place in his or her place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license or verification of license by payment of a fee set by the Board not to exceed one hundred dollars (\$100.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself or herself out to be a nursing home administrator may have his or her name placed on an inactive list for such period of time not to exceed four years upon payment of a fee set by the Board not to exceed two hundred dollars (\$200.00) per year.

Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed five hundred dollars (\$500.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed one thousand dollars (\$1,000) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars (\$100.00) per hour for certifying a course submitted for review by another individual or agency wishing to offer such courses or may set an annual fee not to exceed four thousand dollars (\$4,000) for certifying a course provider in lieu of certifying each course offered by the provider. (1969, c. 843, s. 1; 1977, c. 652; 1979, 2nd Sess., c. 1282; 1981 (Reg. Sess., 1982), c. 1234, s. 4; 1983, c. 215; 1995 (Reg. Sess., 1996), c. 645, s. 1; 1999-217, s. 1; 2013-346, s. 2.)

§ 90-281. Collection of funds.

All fees and other moneys collected and received by the Board shall be handled as provided by law and as prescribed by the State Treasurer. Such funds shall be used and expended by the Board to pay the compensation and travel expenses of members and employees of the Board and other expenses necessary for the Board to administer and carry out the provisions of this Article. (1969, c. 843, s. 1; 1983, c. 913, s. 10.)

§ 90-282. Repealed by Session Laws 1981, c. 722, s. 8, effective July 1, 1981.

§ 90-283. Organization of Board; compensation; employees and services.

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter 93B of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board shall have the power to employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and clerical or other special personnel deemed necessary to carry out the provisions of this Article. (1969, c. 843, s. 1; 1981, c. 722, s. 9; 2001-153, s. 2; 2013-346, s. 3.)

§ 90-284. Exclusive jurisdiction of Board.

The Board shall have exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a nursing home under the provisions of this Article, and the holder of a license under the provisions of this Article shall be deemed qualified to serve as the administrator of a nursing home for all purposes. (1969, c. 843, s. 1.)

§ 90-285. Functions and duties of the Board.

The Board shall meet at least once annually in Raleigh or any other location designated by the chairman and shall have the following functions and duties:

- (1) Develop, impose and enforce rules and regulations setting out standards which must be met by individuals in order to receive and hold a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators shall be individuals who are of good character and who are otherwise suitable, by education, training and experience in the field of institutional administration, to serve as nursing home administrators.
- (2) Develop and apply appropriate methods and procedures, including examination and investigations, for determining whether individuals meet such standards, and administer an examination at least twice each year at such times and places as the Board shall designate.
- (3) Issue licenses to qualified individuals consistent with G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board implementing those provisions.
- (4) Establish and implement procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.
- (5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards.
- (6) Conduct a continuing study and investigation of nursing homes and nursing home administrators within the State in order to make improvements in the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of such standards, and to raise the quality of nursing home administration in such other ways as may be effective.
- (7) Conduct, or cause to be conducted by contract or otherwise, one or more courses of instruction and training sufficient to meet the requirements of this Article, and make provisions for the conduct of such courses and their accessibility to residents of this State, unless it finds that there are sufficient courses conducted by others within this State. In lieu thereof the Board may approve courses conducted within and without this State as sufficient to meet the education and training requirements of this Article.
- (8) Make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the State to meet the requirements set forth in section 1908 of the Social Security Act, the federal rules and regulations promulgated thereunder, and other pertinent federal authority.

- (9) Receive and disburse any funds appropriated or given to the Board, including any federal funds, to carry out the purposes of this Article.
- (10) Maintain a register of all applications for licensing and registration of nursing home administrators, which register shall show: the place or residence, name and age of each applicant; the name and address of employer or business connection of each applicant; the date of application; information of educational and experience qualifications; the action taken by the Board and the dates; the serial number of the license issued to the applicant; and such other pertinent information as may be deemed necessary.
- (11) Develop an administrator-in-training program to insure that nursing home administrators have adequate training and experience prior to licensure. (1969, c. 843, s. 1; 1981, c. 722, ss. 10, 11; 1981 (Reg. Sess., 1982), c. 1234, s. 3; 2013-346, s. 4.)

§ 90-285.1. Suspension, revocation or refusal to issue a license.

The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

- (1) Has violated the provisions of this Article or the rules adopted by the Board;
- (2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;
- (3) Has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;
- (4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;
- (5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;
- (6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a nursing home administrator;
- (7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;
- (8) Repealed by Session Laws 2013-346, s. 5, effective July 23, 2013.
- (9) Is addicted or dependent upon the use of alcohol or any controlled substance, including morphine, opium, cocaine, or other drugs recognized as resulting in abnormal behavior;
- (10) Has practiced without being registered biennially;
- (11) Has transferred or surrendered possession of, either temporarily or permanently, his or her license or certificate to any other person;
- (12) Has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the

solicitation or procurement, either directly or indirectly, of nursing home patronage;

- (13) Has been guilty of fraudulent, misleading, or deceptive advertising;
- (14) Has falsely impersonated another licensee;
- (15) Has failed to exercise regard for the safety, health or life of the patient;
- (16) Has permitted unauthorized disclosure of information relating to a patient or his or her records; or
- (17) Has discriminated among patients, employees, or staff on account of race, gender, religion, color, national origin, mental or physical disability, or any other class protected by State or federal law. (1981, c. 722, s. 12; 2001-153, s. 3; 2008-187, s. 41; 2013-346, s. 5.)

§ 90-286. Renewal of license.

Every holder of a nursing home administrator's license shall renew it biennially by application to the Board. The Board shall grant renewals when the applicant has paid the fee required by this Article and has satisfactorily completed continuing education courses as may be prescribed by the Board, unless the Board finds that the applicant has acted or failed to act in such a manner as would constitute grounds for suspension, revocation or denial of a license as provided by this Article. The Board shall adopt rules defining the content of continuing education courses approved or required by it under this section and shall make a copy of these rules available to each licensee. The Board shall not require any licensee to successfully complete more than 30 hours of continuing education courses every two years. The Board shall certify and administer continuing education courses for nursing home administrators and shall keep a record of the courses successfully completed by each licensee. (1969, c. 843, s. 1; 1981, c. 722, s. 13; 1983, c. 72.)

§ 90-287. Reciprocity with other states.

The Board may issue a nursing home administrator's license to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the Board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this State and that the applicant has passed the national and the State examinations administered by the Board and is otherwise qualified. (1969, c. 843, s. 1; 2013-346, s. 6.)

§ 90-288. Misdemeanor.

It shall be unlawful and constitute a Class 1 misdemeanor,

- (1) For any person to act or serve in the capacity as, or hold himself out to be, a nursing home administrator, or use any title, sign, or other indication that he is a nursing home administrator, unless he is the holder of a valid license as a nursing home administrator, issued in accordance with the provisions of this Article, and
- (2) For any person to violate any of the provisions of this Article or any rules and regulations issued pursuant thereto. (1969, c. 843, s. 1; 1993, c. 539, s. 649; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 90-288.01. Criminal history record checks of applicants for licensure.

(a) The following definitions apply in this section:

- (1) Applicant. – A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.
- (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) Criminal History Record Check. – The Board shall require a criminal history record check of all applicants for initial licensure and temporary licensure. The Board, in its discretion, may require a criminal history record check of an applicant for license renewal. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any

fees required by the Department of Public Safety and shall remit the fees to the Department of Public Safety for expenses associated with conducting the criminal history record check.

(c) Convictions. – If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the applicant at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) Denial of Licensure. – Except as otherwise provided by law, if the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) Limited Immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check. (2008-183, s. 1; 2012-12, s. 2(kk); 2013-346, s. 7; 2014-100, s. 17.1(o); 2015-181, s. 47.)

§ 90-288.02. Confidentiality of investigative records.

Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record. Information that identifies a resident who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a resident who has not consented to the public disclosure of services rendered to him or her shall be deleted. (2013-346, s. 8.)

§ 90-288.03. Reserved for future codification purposes.

§ 90-288.04. Reserved for future codification purposes.

§ 90-288.05. Reserved for future codification purposes.

§ 90-288.06. Reserved for future codification purposes.

§ 90-288.07. Reserved for future codification purposes.

§ 90-288.08. Reserved for future codification purposes.

§ 90-288.09. Reserved for future codification purposes.